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C O N F I D E N T I A L SECTION 01 OF 03 HO CHI MINH CITY 000473

SIPDIS

STATE FOR EAP/MLS

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TAGS: PHUM PREL VM

SUBJECT: LEADING VIETNAMESE LAWYER LE CONG DINH ARRESTED

REF: (A) HCMC 169 (B) HCMC 361 (C) 2008 HCMC 815

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CLASSIFIED BY: Kenneth J. Fairfax, Consul General, U.S.
Consulate General Ho Chi Minh City, Vietnam, Department of
State.

REASON: 1.4 (b), (c), (d)

¶1. (SBU) SUMMARY: Vietnamese police arrested lawyer Le Cong Dinh at his home in Ho Chi Minh City's (HCMC) District 7 on June 13 then searched his home and office in District 1. Dinh is widely considered to be one of Vietnam's top corporate litigators (with A-list clients including ExxonMobile and HCMC Mayor's office), as well as high profile democracy activists like Le Thi Cong Nhan and Nguyen Van Dai, blogger Dieu Cay, and Nguyen Quoc Quan (a U.S. citizen accused of planning to distribute pro-democracy literature in Vietnam). He is also a former Fulbright scholar and a member of the Vietnamese and American Bar Associations. Le Cong Dinh was arrested under Article 88 of Vietnam's penal code for "colluding with domestic and foreign reactionaries to sabotage the Vietnamese state," according to state-run Voice of Vietnam and Major-General Hoang Cong Tu, head of the Investigation Agency at the Ministry of Public Security. MPS statements also implicate Le Cong Dinh in an alleged plot to overthrow the GVN by force in 2010, which would be grounds for a charge of treason, which carries the death penalty. Draft press guidance has been sent to the Department via e-mail. END SUMMARY.

BACKGROUND

¶2. (SBU) Attorney Le Cong Dinh is one of the most respected attorneys in Vietnam. He has over 16 years of legal experience, including with U.S. firms, and earlier co-founded Dan Chu (Democracy) Lawyers. Dinh attended Hanoi Law School and Ho Chi Minh City University School of Law. He attended the Universite Pantheon-Assas in Paris and was later a Fulbright scholar at both Columbia University School of Law and Tulane University School of Law where he received his LLM in 2000.

¶3. (SBU) Dinh is well-known for his long list of corporate clients that included: ExxonMobil, Aventis, Konica, Richard Ellis, Quest International, Saigon Real Estate Corporation and even the Ho Chi Minh City People's Committee. Dinh gained notoriety for his work fighting, and winning, anti-dumping proceedings in the U.S. aimed at fish imports from Vietnam. He also advised a group of international banks attempting to establish the first joint venture investment bank in Vietnam. Up until this year, Dinh was Vice President of the Ho Chi Minh City Bar. He stepped down from his position due to pressure from the government (ref A).

¶4. (C) Dinh is a close contact of Mission Vietnam and has met regularly with the Ambassador, Deputy Chief of Mission and

Consul General in HCMC. Additionally, as an expert on corporate law in Vietnam with a background in defending high-profile political dissidents, Dinh also met many other senior USG officials including: former Deputy Secretary of State John Negroponte, former U.S. Secretary of Commerce Carlos Gutierrez, former HHS Secretary Leavitt, former DRL A/S Barry Lowenkron, EAP DAS Scot Marciel and former R DAS Alina Romanowski as well as with dozens of Members of Congress, including U.S. House Majority Leader Steny Hoyer, former Senator Chuck Hagel, Congressman Roy Blunt and Congressman Jerry Costello.

WHY ARREST DINH?

15. (SBU) Unlike the quiet arrests of Bloc 8406 dissidents last fall, state-run media blanketed the airwaves with information surrounding Dinh's apprehension. An article, complete with pictures of the arrest, was immediately posted on the Citizen's Police newspaper's website. Feature length stories ran the next day in all party-run newspapers and on the nightly news. Over the course of the weekend, news of the arrest flooded Vietnam's print media online news and the blogosphere. From the Thanh Nien Daily and Tuoi Tre to Saigon Giai Phong (the official newspaper of the Party in HCMC), newspapers cited a laundry list of accusations: violating Article 88 of the Criminal Code, sending documents to foreign press agencies (including BBC and RFA); contributing articles to overseas dissident groups including Viet Tan, Chan Troi Moi (New Horizon) and Tap San Tu Do Dan Chu (Freedom and Democracy Journal); attending training courses on "methods of non-violent struggle" and applying them against the Vietnamese Government; having close relationships with leaders of exiled "reactionary organizations" (Ha Dong Xuyen of Viet Tan, Nguyen Sy Bin of the People's Action Party, and Doan Viet Hoat of Vietnam's Prospects); and drafting a "new constitution that envisions Vietnam becoming a republic."

16. (C) Amid this flood of data and accusations, both rumors and MPS's official statements focus on three reasons for Dinh's

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arrest:

- First: Dinh's activism in representing the most sensitive political dissident cases made him an easy target. Multiple statements from the MPS implied a type of "guilt by association," i.e. since Dinh had represented these persons he must be a member of their organizations.

- Second: Dinh was a regular contributing editorial writer for the BBC in Vietnamese and either contributed to, or was interviewed by Radio Free Asia (RFA). His articles frequently criticized the government for harassing political dissidents and other human rights attorneys, like Le Tran Luat. In May, he authored a particularly critical piece on planned bauxite mining in the Central Highlands. In that piece, he went so far as to say that former Southern Republic of Vietnam President Diem cared more for the Central Highlands than the current government.

- Third: Dinh was allegedly in close contact with Nguyen Sy Bin, an American citizen arrested in HCMC in 1992 for "attempting to overthrow the state." GVN statements describe Nguyen Sy Bin as the founder of the "People's Action Party." Another Vietnamese businessman known for his pro-reform activist and a colleague of Le Cong Dinh's, Tran Huynh Duy Thuc, was arrested on May 24 for using his company, One-to-One Communications, as a front for overseas agents attempting to overthrow the government.

17. (C) Comment: There are two other additional factors that may have played a role. First, the successful conclusion of the ASEM Ministerial, the conclusion of the UPR in Geneva and the absence of high level visits on the horizon may make the GVN feel that now is a good time. Many speculate that the GVN's human rights record improved markedly in the lead up to its APEC Chairmanship and State visit by President Bush, but has been in slow decline since. Second, impending personnel shifts at MPS

with the retirement of Vice Minister Nguyen Van Huong could have played a role. Huong is likely to be replaced by the current head of the General Security Division. Whoever replaces him may need to demonstrate his loyalty and toughness to survive in the job.

LEGAL COLLEAGUES UPSET -- AND WORRIED

¶18. (C) According to HCMC-based lawyers who discussed the case with CG, the third charge is the most troubling. MPS alleges that Le Cong Dinh was the third organizer of a plot hatched by Nguyen Sy Binh and Tran Huynh Duy Thuc to overthrow the government of Vietnam in 2010. Multiple MPS statements have included a reference to a meeting that was supposed to have taken place between the three men in Phuket, Thailand, in March of 2009 during which Nguyen Sy Binh and Tran Huynh Duy Thuc coached Le Cong Dinh on methods for overthrowing the GVN. Vietnamese and American lawyers in HCMC further told CG that the MPS found a copy of a draft "New Constitution" with 106 articles on the laptop computer they confiscated from Le Cong Dinh as well as copies of e-mail correspondence between the three alleged conspirators. Public statements from the MPS have referred to the existence of a "New Constitution" but have not traced it to Dinh's computer. Lawyers who know Nguyen Sy Binh state that he is known for his anti-GVN rhetoric and express some fear that e-mails on Dinh's computer could include messages from Binh advocating the overthrow of the GVN. While no one believes Dinh would have written about or condoned a violent overthrow, simply corresponding with someone who mentions that possibility could be construed as an offense.

¶19. (C) According to Vietnamese lawyers at some of the leading international law firms in HCMC, the public portrayal of the case against Le Cong Dinh is unprecedented in terms of scope and detail. They describe published accounts of the charges, particularly the detailed listing in Saigon Giai Phong, as having been written with particular attention to what is needed to obtain a conviction under the catch-all "Section 88" law banning activities and propaganda against the state of Vietnam. They quickly add, however, that while Le Cong Dinh was arrested on charges of violating Section 88, which carries a penalty of three to twenty years in jail, MPS comments have included statements to the effect that Le Cong Dinh was plotting the overthrow of the GVN. Lawyers describe these MPS statements as carefully constructed so as to prepare the groundwork for a treason charge, which carries the death penalty. There is speculation that the MPS is using the threat of charges carrying the death penalty to coerce Dinh into providing evidence against other pro-reform advocates in the legal community. The managing partner of one of Vietnam's largest international practices said that his Vietnamese staff fall into two categories: the young ones who view the arrest as a potential catalyst for forcing meaningful reform due to domestic and international backlash and

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the older ones who fear that they will be arrested next. Already, one lawyer who previously worked with Le Cong Dinh called the Consulate to report that a woman purporting to be a Consulate employee called him to question him about his past travel to the USA, his purpose in traveling and the names of persons he met. (Note: This would not be the first time that the MPS impersonated a Consulate employee to obtain information.)

¶110. (C) In a meeting with CG, one of Vietnam's top corporate lawyers stated that the international legal community is also deeply concerned by footage showing MPS investigators shifting through Le Cong Dinh's law office and all of his files -- including the 90% that pertain to his corporate work. For lawyers, the idea that the MPS can use one charge to sift through all of their files, including those with highly sensitive business information, adds another layer of complexity to the fear gripping the legal community.

MPS TELLING OTHERS TO STAY QUIET

¶11. (C) In a June 15 meeting to discuss the arrest, well-known human rights lawyer Le Tran Luat told PolOff he been instructed explicitly by the police to remain silent on Dinh's arrest. Luat praised Dinh for defending him in an editorial on the BBC following his disbarment and regular harassment by the police for his role in defending the Thi Hai parishioners (ref B). Luat noted that he still was questioned by the police at least two or three times a week. When asked why he hadn't been arrested, Luat asserted that he had been protected by the prayers of millions of Catholics world-wide due to his defense of the eight Catholic protestors related to the Thai Ha Parish land dispute and prayer vigils late last year. He also argued his close association with the Embassy and the Swedish Embassy gave him an extra level of protection. (NOTE: Several plain-clothes police closely monitored PolOff's meeting with Luat at a cafe near his home. After the meeting, Luat's wife informed us that he was detained for questioning. End Note.)

¶12. (C) Later on June 15 the Consulate reached Le Cong Dinh's wife, the former Miss Vietnam Nguyen Thi Ngoc Khanh, directly. She told us that she witnessed the June 13 arrest and search of their home, but was not allowed to talk to her husband. She does not know where Dinh is being held and has not been told if she will be allowed to visit him. Khanh said Dinh's two brothers are living abroad; his mother lives with Dinh's older sister in HCMC; because of her high blood pressure, the family has tried to keep the news of the arrest from her. Khanh agreed to share updates with the Consulate regarding her husband's case.

¶13. (C) Comment: Ngoc Khanh is a media and business figure in her own right. After getting her start as Miss Vietnam in 1998, she later became an actress before becoming a lawyer and the president of a business news television channel (Vietnam's only privately-owned news channel). Ngoc Khanh is also an articulate and vocal advocate for reform and is considered by some of her fellow lawyers in HCMC (both Vietnamese and American) to be even more outspoken than her husband. In conversations with CG on June 15, some lawyers speculated that Ngoc Khanh is likely under tremendous pressure from MPS not to say anything publicly about her husband's arrest since (as the recent case of blogger Dieu Cay showed) the MPS could charge her with the same offenses her husband faces. End Comment

COMMENT

¶14. (C) Le Cong Dinh is widely respected among colleagues in Vietnam and abroad. Unlike many other "dissidents" in Vietnam who focus the majority of their efforts on advocating political change, Dinh is a pillar of the legal community who has been publicly praised by top GVN leaders in the past for his work defending Vietnam. His arrest on the eve of the EU-Vietnam Human Rights Dialog (schedule to start on June 16) shows either a total disregard for the views of the international community or a lack of coordination within the GVN prior to taking this step. While the MPS is intimidating persons inside of Vietnam to remain silent, they cannot control international media. We anticipate significant continued interest in this case.

¶15. (U) This cable was coordinated with Embassy Hanoi.
FAIRFAX